

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:24-CV-00754-FDW-SCR**

SHARON THOMAS,)	
)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
INTERMARK MANAGEMENT)	
CORPORATION, ANDREA MAYS,)	
COLLETTE MATTOX, MARK)	
STUCKEY, GREENWAY RESIDENTIAL)	
DEVELOPMENT, BRADLEY E.)	
PARKER, CHARLOTTE)	
MECKLENBURG COMMUNITY)	
RELATIONS COMMITTEE, WILLIE)	
RATCHFORD, GWENARDA MILLER,)	
LUIS MATTA, KIMBERLY COLE,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on Defendants Intermark Management Corporation, Andrea Mays, Collette Mattox, and Mark Stuckey's Motion to Dismiss, (Doc. No. 10), Plaintiff's Motion for Extension of Time to submit Amended Complaint, (Doc. No. 12), Plaintiff's Motion for Extension of Time to Make Corrections and Submit Complaint, (Doc. No. 14), and Plaintiff's Motion for Extension of Time to File Response/Reply, (Doc. No. 16).

“A party may amend its pleading **once** as a matter of course . . . if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b)” Fed. R. Civ. P. 15(a)(1)(B) (emphasis added). “Upon the filing of an amended complaint, the original complaint is superseded, and motions to dismiss the original complaint are rendered moot.” MB Realty Grp., Inc. v. Gaston Cty. Bd. of

Educ., No. 3:17-cv-00427-FDW-DCK, 2018 WL 3381427, at *2 (W.D.N.C. July 11, 2018); see also Brown v. Sikora and Associates, Inc., 311 F. App'x 568, 572 (4th Cir. 2008).

“In all other cases, a party may amend its pleading **only with the opposing party’s written consent or the court’s leave.**” Fed. R. Civ. P. 15(a)(2) (emphasis added). “[L]eave to amend a pleading should be denied **only when** the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile.” Edwards v. City of Goldsboro, 178 F.3d 231, 242 (4th Cir. 1999) (emphasis in original) (citing Johnson v. Oroweat Foods Co., 785 F.2d 503, 509 (4th Cir. 1986)). Importantly though, “Rule 15 is not designed to allow a plaintiff to repeatedly amend his or her pleadings in the face of motions to dismiss and/or Court Orders dismissing claims until the plaintiff can ‘get it right.’” Performance Sales & Mktg., LLC v. Lowe’s Cos., Inc., No. 5:07cv140, 2011 WL 13227840, at *2 (W.D.N.C. May 27, 2011).

On October 16, 2024, Defendants filed their Motion to Dismiss, pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. No. 10). Within twenty-one days, on October 25, 2024, Plaintiff properly filed her first amended Complaint, (Doc. No. 13), rendering Defendants’ Motion, (Doc. No. 10), moot. Since Plaintiff timely amended her Complaint once as a matter of course, her Motion for Extension of Time to Amend, (Doc. No. 12), is also moot. Finally, Plaintiff’s Motion for Extension of Time to File Response/Reply, (Doc. No. 16), is also moot.

Plaintiff attempted to file a second amended Complaint on October 28, 2024. (Doc. Nos. 14–15.) Plaintiff does not represent she has Defendants’ consent and she did not seek leave of the Court before docketing her proposed second amended Complaint. Accordingly, Plaintiff’s Motion for Extension of Time to Make Corrections and Submit Complaint, (Doc. No. 14), is denied without prejudice, and Plaintiff’s proposed second amended Complaint, (Doc. No. 15), is stricken

from the docket. Plaintiff may seek to further amend her Complaint, in compliance with the requirements of Rule 15.

IT IS THEREFORE ORDERED:

1. Defendants' Motion to Dismiss, (Doc. No. 10), is **DENIED as MOOT**.
2. Plaintiff's Motion for Extension of Time to Amend, (Doc. No. 12), is **DENIED as MOOT**.
3. Plaintiff's Motion for Extension of Time to Make Corrections and Submit Complaint, (Doc. No. 14), is **DENIED without prejudice**.
4. Plaintiff's proposed second amended Complaint, (Doc. No. 15), is **STRICKEN** from the docket.
5. Plaintiff's Motion for Extension of Time to File Response/Reply, (Doc. No. 16), is **DENIED as MOOT**.

IT IS SO ORDERED.

Signed: October 29, 2024



Frank D. Whitney
United States District Judge

